

FILED

OCT 26 2000

SECRETARY, BOARD OF
OIL, GAS & MINING

**BEFORE THE BOARD OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH**

IN THE MATTER OF THE REQUEST FOR
AGENCY ACTION OF J.M. HUBER
CORPORATION FOR AN ORDER
MODIFYING THE BOARD'S ORDER
ENTERED IN CAUSE NO. 220-2 TO
ALLOW RE-ENTRY INTO THE HUBER-
JENSEN 11-10 WELL, LOCATED IN THE
NE¼SW¼ OF SECTION 10, TOWNSHIP
12 SOUTH, RANGE 10 EAST, SLM,
CARBON COUNTY, UTAH, FOR
PRODUCTION OF COALBED METHANE
GAS FROM THE CRETACEOUS MESA
VERDE/BLACKHAWK FORMATION)

**FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
ORDER**

Docket No. 2000-12

Cause No. 220-3

This cause came on for hearing before the Utah Board of Oil, Gas and Mining (the "Board") on Wednesday, September 27, 2000, at the hour of 10:00 a.m., in Vernal, Utah.

The following Board members were present and participated at the hearing:

- Dave D. Lauriski, Chairman,
- Thomas B. Faddies,
- J. James Peacock,
- Raymond Murray,
- Elise L. Erler,
- Allan Mashburn, and
- Stephanie Cartwright.

Attending and participating on behalf of the Division of Oil, Gas and Mining (the "Division") was John Baza, Associate Director - Oil and Gas. The Board and the Division were represented by Kurt Seel, Esq. and Thomas A. Mitchell, Esq., Assistant

Attorneys General, respectively. Attending and participating on behalf of the Bureau of Land Management ("BLM") was Robert Henricks, Chief - Branch of Fluid Minerals.

Testifying on behalf of Petitioner J.M. Huber Corporation ("Huber") were T. Reed Scott, self-employed consulting engineer for Huber and Huber's project manager for the Castlegate field, and George L. Hampton, III, Hampton & Associates, Inc., consulting geologist for Huber. Frederick M. MacDonald, Esq., Pruitt, Gushee & Bachtell, appeared as attorney for Huber.

The Division and BLM, upon conclusion of Huber's case in chief, both expressed support for the Request for Agency Action. No other statements were made at the hearing in opposition of the Request for Agency Action and no other parties appeared or participated at the hearing.

The Board, having considered the testimony presented and the exhibits received into evidence at the hearing, being fully advised, and for good cause appearing, hereby makes the following findings of fact, conclusions of law, and order.

FINDINGS OF FACT

1. Huber is a New Jersey corporation in good standing and authorized to conduct business in the State of Utah. Huber is fully bonded with all appropriate Federal and State of Utah agencies.

2. By Order entered July 9, 1993 in Cause No. 220-2, the Board established a 160-acre drilling and spacing unit, comprised of the SW¼ of Section 10, Township 12

South, Range 10 East, SLM (the "Unit"), for the production of coalbed methane gas from the Cretaceous Mesa Verde/Blackhawk formation, defined as follows:

the stratigraphic equivalent of 3,582 feet below the surface of the earth down to 4,500 feet as measured in the Shimmin Trust #4 Well located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 11, Township 12 South, Range 10 East, SLM

(the "Spaced Formation") and, without expressly stating but nevertheless resulting by operation of law, ruled that only one well may produce in the Unit from the Spaced Formation.

3. The "Jensen 11-10 well," located 1,461 feet FSL and 1,735 feet FWL in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 10, was completed as a producing gas well on September 4, 1993 with producing intervals within the Spaced Formation. It was the original well allowed for the Unit under the Order entered in Cause No. 220-2 but it was plugged and abandoned on June 15, 1998.

4. Huber currently owns all of the working interest within the Unit. It acquired the rights to the Jensen 11-10 wellbore and has since renamed it the "Huber-Jensen 11-10" well.

5. Huber drilled the "Huber-Jensen 1-10" well, located 2,238 feet FSL and 912 feet FWL in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 10, and completed it as a producing gas well on January 4, 2000 with producing intervals within the Spaced Formation. It currently is the only well allowed for the Unit under the Order entered in Cause No. 220-2.

6. Huber has additionally drilled and currently operates other wells that produce from the Spaced Formation on adjacent lands (the "Castlegate field").

7. Attempts in the early 1990's to develop the Castlegate field by Huber's predecessors in title proved uneconomical due to the large amount of water produced in relation to the gas produced and due to inefficient drilling and completion techniques.

8. Through its experience in the Castlegate field and other coalbed methane projects in other states, Huber has developed more advanced drilling and completion techniques than those utilized at the inception of the Castlegate field.

9. Due to the proximity of the Huber-Jensen 1-10 and 11-10 wells and the techniques Huber has developed and plans to utilize, Huber's proposed re-entry of the Huber-Jensen 11-10 well will assist in defining the reservoir characteristics of the Spaced Formation, particularly with respect to the requisite dewatering and interference required, for successful coalbed methane development.

10. The geology of the Spaced Formation is sufficiently uniform such that the data generated from Huber's proposed re-entry of the Huber-Jensen 11-10 well will be useful in development of the entire Castlegate field.

11. Mineral and leasehold ownership within the Unit is uniform and therefore existing rights to production from the Huber-Jensen 1-10 well will not be affected by the proposed re-entry of the Huber-Jensen 11-10 well.

12. Modification of the Board's Order in Cause No. 220-2 to allow the re-entry of the Huber-Jensen 11-10 well for production of coalbed methane gas from the Spaced Formation concurrent with the Huber-Jensen 1-10 well will be in furtherance of the public policies of this State to promote greater recovery of gas without waste and with protection of the correlative rights of all affected owners.

13. A copy of the Request for Agency Action was mailed to all royalty, overriding royalty, and working interest owners and operators in the Unit and all adjacent drilling and spacing units created under existing Board orders and the general well siting rule to their last known addresses, as disclosed by the appropriate Federal, State of Utah and County realty records.

14. Notice was duly published as required by Utah Admin. Code Rule R641-106-100.

15. The vote of the Board members present in the hearing and in this cause was unanimous in favor of granting the Request for Agency Action.

CONCLUSIONS OF LAW

1. Due and regular notice of the time, place, and purpose of the hearing was properly given to all interested parties in the form and manner as required by law and the rules and regulations of the Board and Division.

2. The Board has jurisdiction over all matters covered by the Request for Agency Action and all interested parties therein, and has the power and authority to render the order herein set forth pursuant to Utah Code Ann. § 40-6-6(6).

3. The Request for Agency Action satisfies all statutory and regulatory requirements for the relief sought therein and should be granted.

ORDER

Based upon the Request for Agency Action, testimony and evidence submitted, and the findings of fact and conclusions of law stated above, the Board hereby orders:

1. The Request for Agency Action in this cause is granted.
2. The Board's Order entered in Cause No. 220-2 is modified so as to allow the re-entry of the Huber-Jensen 11-10 well for the production of coalbed methane gas from the Spaced Formation concurrent with the Huber-Jensen 1-10 well.
3. Pursuant to Utah Admin. Code Rule R641 and Utah Code Ann. § 63-46b-6 to -10, the Board has considered and decided this matter as a formal adjudication.
4. This Findings of Fact, Conclusion of Law and Order ("Order") is based exclusively on evidence of record in the adjudicative proceeding or on facts officially noted, and constitutes the signed written order stating the Board's decision and the reasons for the decision, all as required by the Administrative Procedures Act, Utah Code Ann. § 63-46b-10 and Utah Administrative Code Rule R641-109.

5. Notice re: Right to Seek Judicial Review by the Utah Supreme Court or to Request Board Reconsideration: As required by Utah Code Ann. § 63-46b-10(e) to -10(g), the Board hereby notifies all parties in interest that they have the right to seek judicial review of this final Board Order in this formal adjudication by filing a timely appeal with the Utah Supreme Court within 30 days after the date that this Order is issued. Utah Code Ann. § 63-46b-14(3)(a) and -16. As an alternative to seeking immediate judicial review, and not as a prerequisite to seeking judicial review, the Board also hereby notifies parties that they may elect to request the Board reconsider this Order, which constitutes a final agency action of the Board. Utah Code Ann. § 63-46b-13, entitled, “Agency review – Reconsideration,” states:

(1)(a) Within 20 days after the date that an order is issued for which review by the agency or by a superior agency under Section 63-46b-12 is unavailable, and if the order would otherwise constitute final agency action, any party may file a written request for reconsideration with the agency, stating the specific grounds upon which relief is requested.

(b) Unless otherwise provided by statute, the filing of the request is not a prerequisite for seeking judicial review of the order.

(2) The request for reconsideration shall be filed with the agency and one copy shall be sent by mail to each party by the person making the request.

(3)(a) The agency head, or a person designated for that purpose, shall issue a written order granting the request or denying the request.

(b) If the agency head or the person designated for that purpose does not issue an order within 20 days after the filing of the request, the request for reconsideration shall be considered to be denied.

Id. The Board also hereby notifies the parties that Utah Admin. Code Rule R641-110-100, which is part of a group of Board rules entitled, “Rehearing and Modification of Existing Orders,” states:

Any person affected by a final order or decision of the Board may file a petition for rehearing. Unless otherwise provided, a petition for rehearing must be filed no later than the 10th day of the month following the date of signing of the final order or decision for which the rehearing is sought. A copy of such petition will be served on each other party to the proceeding no later than the 15th day of the month.

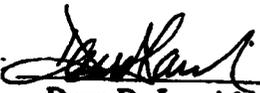
Id. See Utah Admin. Code Rule R641-110-200 for the required contents of a petition for Rehearing. If there is any conflict between the deadline in Utah Code Ann. § 63-46b-13 and the deadline in Utah Admin. Code Rule R641-110-100 for moving to rehear this matter, the Board hereby rules that the later of the two deadlines shall be available to any party moving to rehear this matter. If the Board later denies a timely petition for rehearing, the party may still seek judicial review of the Order by perfecting a timely appeal with the Utah Supreme Court within 30 days thereafter.

6. The Board retains continuing jurisdiction over all the parties and over the subject matter of this cause, except to the extent said jurisdiction may be divested by the filing of a timely appeal to seek judicial review of this order by the Utah Supreme Court.

7. For all purposes, the Chairman's signature on a faxed copy of this Order shall be deemed the equivalent of a signed original.

ISSUED this 26th day of October, 2000.

**STATE OF UTAH
BOARD OF OIL, GAS & MINING**

By: 
Dave D. Lauriski, Chairman

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER in Docket No. 2000-012, Cause No. 220-3 to be mailed with postage prepaid, this 26th day of October, 2000, to the following:

Frederick M. MacDonald
PRUITT, GUSHEE & BACHTELL
Attorneys for J.M. Huber Corporation
1850 Beneficial Life Tower
Salt Lake City, UT 84111

Thomas A. Mitchell
Assistant Attorney General
160 East 300 South, 5th Floor
P.O. Box 140857
Salt Lake City, UT 84114-0857

Kurt E. Seel
Assistant Attorney General
160 East 300 South, 5th Floor
P.O. Box 140857
Salt Lake City, UT 84114-0857

John R. Baza, Associate Director
Utah Division of Oil, Gas and Mining
1594 West North Temple, Suite 1210
P.O. Box 145801
Salt Lake City, UT 84114-5801
(Hand Delivered)

J.M. Huber Corporation
Attn: Scott Zimmerman, Manager
Coalbed Methane Business Unit
1050 Seventeenth Street, Suite 1850
Denver, CO 80265

United States of America
Bureau of Land Management
Utah State Office
Attn: Robert Henricks
324 South State, Suite 301
Salt Lake City, UT 84111-2303

Pierre A. Moynier III
Lee Moynier
555 Park Drive
Price, UT 84501

Paul F. Moynier
Mae F. Moynier
205 East 900 North
Price, UT 84501

James T. Jensen
2961 East Caitland Court
Salt Lake City, UT 84121

Norma Jeanne Moynier
1490 East 500 South #29
Price, UT 84501

Melanie M. Dent
1251 West Canary Way
Chandler, AZ 85248-3134

Utah School & Institutional
Trust Lands Administration
Attn: Ed Bonner
675 East 500 South #500
Salt Lake City, UT 84102

Dix Jensen
P.O. Box 1736
525 Wood Hill Road
Price, UT 84501

Jerry J. Jensen
1155 North Carbonville Road
Price, UT 84501

United States of America
Bureau of Land Management
Moab Field Office
Attn: Eric Jones
82 East Dogwood
Moab, UT 84532

Diane Holland